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United States Senate

May 18, 2017

Robert A. Kaplan
US EPA Region 5
Ralph Metcalfe Federal Building
77 West Jackson Boulevard
Chicago, IL 60604-3590

Dear Administrator Kaplan,

I am writing on behalf of my constituent Mr. Geoff Glanders who is the President of August Mack Environment, Inc. (AME), which is headquarter in Indianapolis, Indiana. According to Mr. Glanders, the situation is as follows: AME was contracted to perform extensive work at the Big John Salvage Superfund Site in West Virginia.

Mr. Glanders states that on October 10, 2012, The United States District Court for the Northern District of West Virginia entered a Consent Decree concerning the cleanup of the Big John's Salvage – Hoult Road Superfund Site. This Decree included provisions for the recovery of cost previously incurred by the federal government as well as an EPA drafted Action Memorandum. It also required performance future response actions in accordance with EPA's Action Memorandum and it required the parties responsible for the contamination at the site to pay millions of dollars to the EPA to fund these future removal activities. AME was selected as the supervising contractor by Vertellus (the party responsible for performing the work under the Consent Decree). EPA approved the selection of AME (under authority granted to the agency by Consent Decree), AME has served as the supervising contractor for this removal work to the EPA's satisfaction. In fact, EPA has been involved at every stage of the work AME has performed at the site.

AME, has submitted invoices for its work and associated cost to EPA. As documented by these invoices, AME incurred \$2,399,874.69 in response costs associated with the River Removal Action Work and \$261,276.29 for the Uplands Work at the site. It is AME's understanding that EPA has and does not dispute these amounts. However, to date, AME has not received compensation for services rendered nor has it been reimbursed for the costs it has incurred. Instead of paying AME for its work (work from which EPA has benefitted), EPA is claiming the recent bankruptcy of Vertellus (the party responsible for performing the work) as a reason for not using available funds to pay AME for its work and reimburse them for their cost. According to Mr. Glanders, EPA's refusal to pay AME for the work it has performed and cost it has incurred places AME in the shoes of parties responsible for the contamination, and it appears to be inconsistent with federal law (specifically CERCLA).

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Hence, I respectfully request that you carefully review Mr. Glanders' and AME's claims and grant every consideration consistent with U.S. law and public policy. In addition, I would appreciate an update by your respective offices to my Indianapolis office once your review and determination has been completed.

Sincerely,



Joe Donnelly
United States Senate

Enclosure

cc: Administrator Cecil A. Rodrigues
US EPA Region 3